

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MARKIENA DESHANE BRADY-DAVIS,

Plaintiff(s),

v.

KING COUNTY CORRECTIONAL
FACILITY et al,

Defendant(s).

CASE NO. 2:23-cv-00659-TL-DWC

ORDER ON REPORT AND
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of United States Magistrate Judge David W. Christel (Dkt. No. 4) and Plaintiff's objections to the Report and Recommendation (Dkt. No. 5). Having reviewed the Report and Recommendation, Plaintiff's objections, and the remaining record, the Court DECLINES to adopt the Report and Recommendation and SUSTAINS the objections.

A district court has jurisdiction to review a magistrate judge's report and recommendation on dispositive matters. *See* Fed. R. Civ. P. 72(b). The district court "shall make a de novo determination of those portions of the report or specified proposed findings or

1 recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P.
2 72(b)(3) (“[The district judge] must determine de novo any part of the magistrate judge’s
3 disposition that has been properly objected to”). “The district judge may accept, reject, or modify
4 the recommended disposition; receive further evidence; or return the matter to the magistrate
5 judge with instructions.” *Id.*; *accord* 28 U.S.C. § 636(b)(1). A party properly objects when the
6 party files “specific written objections” to the report and recommendation as required under
7 Federal Rule of Civil Procedure 72(b)(2). Plaintiff filed timely objections. Dkt. No. 5.

8 Judge Christel recommended dismissal of Plaintiff’s case solely on the basis that Plaintiff
9 had not paid the filing fee or filed a completed application to proceed *in forma pauperis*. Dkt.
10 No. 4 at 2. With regard to the application, the only document on file on the docket is the first
11 page of the application. Dkt. No. 1. Plaintiff was issued a notice of filing deficiency and directed
12 to correct the application by June 7, 2023. Dkt. No. 2. Plaintiff’s objection asserts that Plaintiff
13 sent a prison trust account statement on May 24, 2023. Dkt. No. 5 at 3. Plaintiff also submitted
14 an account statement dated May 22, 2023. Dkt. No. 6-2 at 3–5. As Plaintiff has provided some
15 proof of compliance with the notice of deficiency that was not available at the time the Report
16 and Recommendation was issued, the Court will provide Plaintiff with another opportunity to
17 complete the *in forma pauperis* application process. All three pages of the Application to
18 Proceed *In Forma Pauperis* must be completed, signed, and filed with the Court.

19 For the foregoing reasons, the Court hereby ORDERS that:

20 (1) The Court DECLINES TO ADOPT the Report and Recommendation (Dkt. No. 4);

21 (2) Plaintiff’s objections are SUSTAINED;

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1 (3) The Court REFERS this matter back to Judge Christel for further proceedings.

2 Dated this 7th day of July 2023.

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4 Tana Lin
5 United States District Judge